
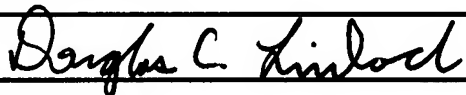
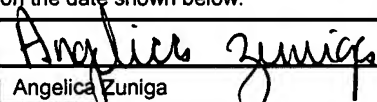


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|-----------------------------------------------------------------------------------|----------------------|------------------------|---------------|
|  | Application Number | 10/658,089 | |
| | Filing Date | September 09, 2003 | |
| | First Named Inventor | Mark Reiley | |
| | Art Unit | 3738 | |
| | Examiner Name | ISABELLA, DAVID J | |
| Total Number of Pages in This Submission | 8 | Attorney Docket Number | 10002-701.409 |

| ENCLOSURES (check all that apply) | | |
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| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Postcard |
| Remarks | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | | |
|--------------------------------------------|--------------------------------------------------------------------------------------|----------|--------|
| Firm | Shay Law Group LLP | | |
| Signature |  | | |
| Printed Name | Douglas Limbach | | |
| Date | 8-9-07 | Reg. No. | 35,249 |

| CERTIFICATE OF TRANSMISSION/MAILING | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|------|----------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. | | | |
| Signature |  | | |
| Typed or printed name | Angelica Zuniga | Date | 08/10/07 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: MailStop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

08/10/07 *Angélica Zuniga*
Date Angélica Zuniga



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: 10/658,089

Inventors: Mark Reiley

Filed: September 09, 2003

Title: **FACET ARTHROPLASTY
DEVICES AND METHODS**

Confirmation No.: 1396

Examiner: ISABELLA, DAVID J

Group Art Unit: 3738

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR § 1.97 & § 1.98

Sir:

In accordance with 37 CFR § 1.97-1.98, applicants hereby submit an Information Disclosure Statement, including attached forms(s) PTO/SB/08. A copy of each reference is being submitted herewith, along with a concise explanation in English for those publications in a foreign language.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. Applicants further request that the Examiner initial and return a copy of the attached form(s) PTO/SB/08 in accordance with MPEP §609.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and /or to prove that this information may not be enabling for the teachings purportedly offered.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in 37 CFR §1.56.

08/15/2007 AAHMAD1 00000010 504050 10658089

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FILING OF INFORMATION DISCLOSURE STATEMENT☐ **37 CFR §1.97(b)**

This statement is being submitted under 37 CFR §1.97(b) because the IDS is being filed:

- ☐ 1). Within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d), or
- ☐ 2). Within 3 months of entry of a national stage as set forth in § 1.491, or
- ☐ 3). Before the mail date of a first Office Action on the merits, or
- ☐ 4). Before the mailing of a first Office Action after filing a request for continued examination under § 1.114.

☒ **37 CFR § 1.97(c)**

This statement is being filed after the latest of:

- ☐ 1). Three months beyond the filing date of a national application, or
- ☐ 2). Three months beyond the date of entry of the national stage as set forth in § 1.491 in an international application, or
- ☒ 3). The mailing date of a first Office Action on the merits, but before the mailing date of the earlier of a final Office Action under § 1.113 or a Notice of Allowance under § 1.311, and then either:
 - ☒ A). A fee of \$180.00 as set forth in § 1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement. or
 - ☐ B). A certification as specified in § 1.97(e) is provided below; thus no fee is required.

☐ **37 CFR § 1.97(d)**

This statement is being filed after the mailing date of the earlier of a Final Office action or a Notice of Allowance under § 1.311, but before payment of the issue fee, and then:

A). A fee of \$180.00 as set forth in § 1.17(p) is authorized below, enclosed, or payment is included with other papers filed together with this statement

--AND--

B). A certification as specified in § 1.97(e) is included below.

CONTENT OF INFORMATION DISCLOSURE STATEMENT UNDER**37 CFR § 1.98**☒ **37 CFR §1.98 (a)(2)(ii), U.S. patents or patent application publication(s) cited**

- ☒ 1). Since not requested by the Office, U.S. patents and U.S. patent application publications are not included.
- ☐ 2). At the request of the Office, a copy of the following U.S. patent or patent application publication is attached:

☒ **37 CFR §1.98 (a)(2)(iii) and (d), Pending unpublished U.S. applications cited**

☒ 1). A copy of each application specification including the claim(s), and any drawing of the application, or that portion of the application that caused it to be listed, including any claims directed to that portion, is attached.

- ☐ 2). A copy of each application specification is not submitted because the specification was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

☐ **37 CFR §1.98 (a)(2)(iii) and (d), English language publication (other than U.S. patents, patent applications, or pending unpublished applications) cited**

- ☐ 1). A legible copy of each publication or that portion which caused it to be listed is attached.
- ☐ 2). A copy of each publication or that portion which caused it to be listed is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

- ☐ 37 CFR §1.98 (a)(2)(i) and (d), Foreign patent(s) in English cited
- ☐ 1). A legible copy of each foreign patent is attached.
- ☐ 2). A copy of each foreign patent is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:
- ☒ 37 CFR §1.98 (a)(2)(i), (a)(3)(i-ii) and MPEP 609(B), Foreign patent(s) or other foreign documents not in English cited. Either:
- ☒ 1). A legible copy of each foreign patent, each publication or that portion which caused it to be listed, is attached --AND--
- ☐ 2a). A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56 (c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language is provided herewith: --OR--
- ☒ 2b). A copy of a written, English-language translation or portion thereof is readily available and attached for JP59010807A, and JP10082605A. --OR--
- ☐ 2c). An English language copy of a foreign search report is submitted for. --OR--
- ☐ 3). A copy of each foreign patent is not submitted because the publication was previously submitted in the IDS of the following, earlier filed application relied on for an earlier effective filing date:

Should the Examiner believe that a complete translation of any of the above listed publications is necessary to understand its disclosure, the applicant(s) will endeavor to provide such translations at the Examiner's request.

STATEMENT UNDER 37 CFR § 1.97(e)

- ☐ Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.
- ☐ No item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

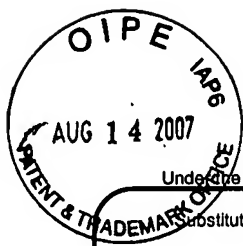
FEE AUTHORIZATION

- ☒ The Commissioner is hereby authorized to charge the above-referenced fees of \$180.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-4050.

Respectfully Submitted,

Dated: 8-9-07
 Shay Law Group
 2755 Campus Drive, Suite 210
 San Mateo, CA 94403
 (650) 212-1700
 Customer No. 66854

By: Douglas C Limbach
 Douglas Limbach Reg. # 35249



PTO/SB/08A (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1 of 4

Complete if Known

| | |
|------------------------|--------------------|
| Application Number | 10/658,089 |
| Filing Date | September 09, 2003 |
| First Named Inventor | Mark Reiley |
| Art Unit | 3738 |
| Examiner Name | ISABELLA, DAVID J |
| Attorney Docket Number | 10002-701.409 |

U. S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Document Number | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|-----------------------|--------------------------|------------------------------------------|--------------------------------|----------------------------------------------------|---------------------------------------------------------------------------------|
| | | Number-Kind Code ² (if known) | | | |
| | 8 | US- 4,123,848 | 11/7/1978 | Emmerich et al. | |
| | 13 | US- 4,349,921 | 9/21/1982 | Kuntz | |
| | 14 | US- 4,394,370 | 7/19/1983 | Jefferies | |
| | 15 | US- 4,472,840 | 9/25/1984 | Jefferies | |
| | 27 | US- 4,950,270 | 8/21/1990 | Bowman et al. | |
| | 375 | US- 5,314,492 | 5/24/1994 | Hamilton et al; | |
| | 54 | US- 5,348,026 | 9/20/1994 | Davidson | |
| | 357 | US- 5,474,551 | 12/12/1995 | Finn et al. | |
| | 361 | US- 5,501,684 | 3/26/1996 | Schlapfer et al. | |
| | 90 | US- 5,658,338 | 8/19/1997 | Tullos et al. | |
| | 99 | US- 5,683,466 | 11/4/1997 | Vitale | |
| | 359 | US- 5,776,135 | 7/7/1998 | Errico et al. | |
| | 358 | US- 6,050,997 | 4/18/2000 | Mullane, Thomas | |
| | 153 | US- 6,165,177 | 12/26/2000 | Wilson et al. | |
| | 363 | US- 7,051,451 B2 | 5/30/2006 | Augustino et al. | |
| | 370 | US- 2006/0149375 A1 | 7/6/2006 | Yuan et al. | |
| | 285 | US- 2006-0184180 A1 | 8/17/2006 | Augustino et al. | |
| | 365 | US- 2006/0265070 A1 | 11/23/2006 | Stinson et al. | |
| | 368 | US- 2007/0079517 A1 | 4/12/2007 | Augustino et al. | |

FOREIGN PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Foreign Patent Document | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear | T ⁶ |
|-----------------------|--------------------------|---------------------------------------------------------------------------------|-----------------------------------|----------------------------------------------------|---------------------------------------------------------------------------------|----------------|
| | | Country Code ³ Number ⁴ Kind Code ⁵ (if known) | | | | |
| | 374 | JP 10082605 A | 3/31/1998 | Takeuchi et al. | | |
| | 373 | JP 59010807 A | 1/1/1984 | Ando, Hisao | | |
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Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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| Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i> | | Complete if Known | |
| | | Application Number | 10/658,089 |
| | | Filing Date | September 09, 2003 |
| | | First Named Inventor | Mark Reiley |
| | | Art Unit | 3738 |
| | | Examiner Name | ISABELLA, DAVID J |
| Sheet 3 of 4 | Attorney Docket Number | | 10002-701.409 |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
| | 371 | YUAN et al; U.S. Pat. App. # 11/636,252 entitled "Prostheses, Tools, and Methods for Replacement of Natural Facet Joints with Artificial Facet Joint Surfaces" filed 12/08/2006 (SLG#10002-704.302). | |
| | 367 | BROMAN et al; U.S. Pat. App. #11/642,417, entitled "Arthroplasty revision system and method" filed 12/20/2006 (SLG# 10002-707.505). | |
| | 369 | OHRT et al; U. S. Pat. App. # 11/724,927 entitled "Facet and disc arthroplasty system and method " filed 3/15/2007 (SLG# 10002-735.201). | |
| | 366 | KUIPER et al; U.S. Pat. App. # 11/635,853, entitled "Crossbar Spinal Prosthesis Having a Modular Design and Related Implantation Methods", filed 12/08/2006 (SLG# 10002-707.301). | |
| | 377 | REILEY et al; U.S. Pat. App. # 11/577,872 entitled "Facet Joint Prosthesis" which entered the U.S. from the National Phase 4/24/2007 (SLG# 10002-701.US4). | |
| | 378 | REILET et al; U.S. Pat. App. # 11/577,923 entitled "Facet Joint Prostheses" filed 4/25/2007 (SLG# 10002-707.US2). | |
| | 379 | KUIPER et al; U.S. Pat. App. # 11/577,964 entitled "Crossbar Spinal Prosthesis Having a Modular Design and Systems for Treating Spinal Pathologies," filed 4/25/2007 (SLG# 10002-707.US2B). | |
| | 380 | KUIPER et al; U.S. Pat. App. # 11/577,967 entitled "Crossbar Spinal Prosthesis having a Modular Design and Systems for Treating Spinal Pathologies," filed 4/25/2007 (SLG# 10002-707.US2C). | |
| | 381 | REILEY, MARK; U.S. Pat. App. # 11/750,981 entitled "Facet Arthroplasty Device and Methods," filed 5/18/2007 (SLG # 10002-701.309). | |
| | 382 | BERG, et al; U.S. Pat. App. # 11/800,895 entitled "Minimally Invasive Spine Restoration Systems, Devices, Methods, and Kits," filed 5/7/2007 (SLG # 10002-731.501). | |

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|--------------------|--|-----------------|--|
| Examiner Signature | | Date Considered | |
|--------------------|--|-----------------|--|

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¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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| | | Application Number | 10/658,089 |
| | | Filing Date | September 09, 2003 |
| | | First Named Inventor | Mark Reiley |
| | | Art Unit | 3738 |
| | | Examiner Name | ISABELLA, DAVID J |
| Sheet 4 | of 4 | Attorney Docket Number | 10002-701.409 |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
| | 376 | REILEY et al; U.S. Pat. App. # 11/746,027 entitled "Facet Arthroplasty Devices and Methods," filed 5/08/2007 (SLG# 10002-701.310). | |
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¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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